

### **REMARKS**

Initially the undersigned attorney for Applicant wishes to express his sincere appreciation for the courtesies extended during the interview of January 22, 2009. The Examiner's time and consideration are appreciated.

The present amendment is in response to the Office Action mailed February 19, 2008, in which Claims 1 through 29 were subject to a restriction requirement.

As set forth in greater detail in the following paragraph, Claims 13 and 17 are amended herein. Claims 1 through 6, 12, and 21 through 29 were previously cancelled and Claim 10 is cancelled herein. No new claim is added. Accordingly, Claims 7, 8, 9, 11, 13 through 20, and 30 through 36 are pending.

All changes made are for clarification and are based on the application as originally filed. It is respectfully submitted that no previously submitted matter is added.

Favorable reconsideration is respectfully requested.

### **CLAIM CANCELLATIONS AND AMENDMENTS**

Independent Claims 13 and 17 have been amended to change "vaccine" to --composition--.

Claim 13 has been further amended to include the language --diluting said biological fluid and diluting said aqueous extract in order to obtain antigens from approximately 100 - 200 viral particles per ml-- which was set forth in Claim 10 as originally filed, now cancelled.

Claim 17 has been further amended to add the language -- said second person or said second animal being selected from the same population as said first person or said first animal--. Support for this new language can be found in the application as originally filed at, for example, paragraph [0036], where it is stated "*...the method may include the additional step of isolating and culturing the infectious organism from an infected person inhabit a particular geographical*

*region. In this form, the vaccine may be used either prophylactically (as a true vaccine) or for the treatment of persons from that geographical region. This aspect of the invention is particularly important in the case of a virus such as HIV which differs in form in different geographical areas.”* At paragraph [0041] of the application as originally filed it is stated “*...the leukocyte fraction from an infected person in a particular geographical area may be combined with a vaccine prepared from isolated cultured virus obtained from another infected person from that same geographical area...*” Accordingly, Applicant respectfully submits that no new matter has been added.

Claim 17 has also been amended for clarification (“culturing an infectious from said biological fluid” to –culturing an infectious organism from said biological fluid--) and to correct certain typographical errors.

#### **CLAIM REJECTIONS – 35 USC SECTION 112, 2<sup>nd</sup> PARAGRAPH**

Initially the Examiner rejected Claim 17 under 35 USC Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. Particularly, the Examiner observed that the claim reads “culturing an infectious from said biological fluid.”

Applicant respectfully traverses this rejection.

Applicant amended Claim 17 to insert the word –organism-- after “infectious.” Accordingly Applicant respectfully submits that this rejection is now and respectfully requests that it be reconsidered and withdrawn.

#### **CLAIM REJECTIONS – 35 USC SECTION 112, 1<sup>st</sup> PARAGRAPH**

The Examiner rejected Claims 7-11, 13-20 and 30-34 under 35 USC Section 112, first paragraph, because the specification, while being enabling for making a composition in which antigen are isolated, does not reasonably provide enablement for a “therapeutic vaccine.”

Applicant respectfully traverses this rejection.

Of these claims only Claim 17 is independent, with the remainder of the rejected claims being directly or indirectly dependent thereupon. Applicant amended Claim 17 to change the word "vaccine" to --composition--. Accordingly Applicant respectfully submits that this rejection is now overcome and respectfully requests that it be reconsidered and withdrawn.

#### **CLAIM REJECTIONS – 35 USC SECTION 102(b)**

The Examiner rejected Claims 13-16 under 35 USC Section 102(b) as being anticipated by Ngu (2001).

Applicant respectfully traverses this rejection.

Of the rejected claims only Claim 13 is independent. Applicant amended Claim 13 herein to include the language --diluting said biological fluid and diluting said aqueous extract in order to obtain antigens from approximately 100 - 200 viral particles per ml--. This was the limitation of dependent Claim 10 as originally filed, now cancelled. Applicant respectfully submits that the identification of the dilution step and the determination of the antigen count as set forth is not taught or suggested in the prior art and would not be readily apparent to one skilled in the art. Applicant was able to identify this step and the antigen count only through experimentation.

Applicant respectfully requests that the rejection under 35 USC Section 102(b) be reconsidered and withdrawn.

#### **CLAIM REJECTIONS – 35 USC SECTION 103(a)**

The Examiner rejected Claims 7-11, 17-20 and 20-34 under 35 USC Section 103(a) as being unpatentable over Ngu as further evidenced by Franks (1998).

Applicant respectfully traverses this rejection.

Of the rejected claims only Claim 17 is independent. Applicant amended Claim 17 herein to specify that the second person or animal is of the same population as the first person or animal. This limitation is neither taught in nor

suggested by the cited prior art and respectfully submits that this limitation is not known in the art in relation to the composition as claimed.

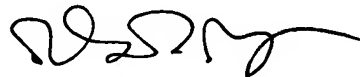
Insofar as it is respectfully submitted that independent Claim 17 is allowable over the art of record, Applicant respectfully submits that dependent Claims 18-20 and 20-34 are allowable as well. Dependent Claims 7-11 are dependent upon independent Claim 13 and are believed to be allowable over the art of record as well in that dependent Claim 13 is also believed to be allowable over the art of record for the reasons stated above.

Applicant respectfully requests that the rejection under 35 USC Section 103(a) be reconsidered and withdrawn.

### **CONCLUSION**

In light of the above amendments and remarks, Applicant respectfully submits that all pending claims as currently presented are in condition for allowance. Applicant respectfully requests that a Notice of Allowance be issued in this case. The undersigned Attorney for Applicant requests a telephone call from the Examiner at the number set forth below in the event that outstanding unresolved issues remain prior to the issuance of another Office Action.

Respectfully submitted,



Thomas T. Moga  
Registration No. 34,881  
Attorney for Applicant

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TTM/hs

**Shook Hardy & Bacon**  
Hamilton Square  
600 14<sup>th</sup> Street, NW, Suite 800  
Washington DC 20005-2004